

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3251 of 1982

with

SPECIAL CIVIL APPLICATION No 4646 of 1982

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
1 to 5 No

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GUJARAT STATE KHADI GRAMODYOGA BOARD

Versus

CHANDRAVADAN ARJUNLAL PANDIT HAVING DIED HEIRS OF L/R.

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Appearance:

1. Special Civil Application No. 3251 of 1982

MR DD VYAS, senior counsel, with Mr.Variavar for Petitioner  
Mr.S.R.Brahmbhatt for  
MR PM BHATT for Respondent No. 1

2. Special Civil ApplicationNo 4646 of 1982

MR S.R.Brahmbhatt for Mr.P.M.Bhatt for Petitioner  
MR DD VYAS, senior counsel,  
with Mr.Variavar for Respondent No. 1

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CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 16/07/98

COMMON ORAL JUDGEMENT

1. Chandravadan Arjunlal Pandit was working as Junior Auditor with the Gujarat State Khadi Gramodyoga Board. By an order dated 17.4.73 he was dismissed from service on charges of negligence with effect from 21.4.73. Against this order dated 17.4.73 Chandravadan Arjunlal Pandit initiated conciliation proceedings and the dispute referred by the appropriate Government to Labour Court was decided on 18.2.82. The Labour Court found the charges to be proved but ordered that the dismissal would relate back from the date of the Award and not from the date 21.4.73 i.e. the date of the order. This view was taken by the Labour Court because the Labour Court found that independently of the inquiry held by the Disciplinary Authority it had found the charges to be proved before itself i.e. the Labour Court. Thus the dismissal order, according to the Labour Court, become effective from 18.2.82. As a result of this order, Chandravadan Arjunlal Pandit could get the wages from 21.4.73 to 18.2.82. Therefore, the Gujarat State Khadi Gramodyoga Board challenged the Labour Court's Award through Special Civil Application No.3251 of 1982. Chandravadan Arjunlal Pandit has challenged the very same Award through Special Civil Application No.4646 of 1982 as according to him the charges could not be held to be proved and he should not have been dismissed at all and alternative plea under S.11A has also been raised.

2. So far as the finding of fact with regard to the proved charges is concerned, no interference is warranted by this Court in a writ of certiorari. It is now settled law that even if the Labour Court holds the charges to be proved, the dismissal would relate back to the date on which the dismissal order is passed by the Disciplinary Authority and, therefore, the Labour Court's Award that the dismissal would relate back to the date of the Award is not sustainable.

3. However, in view of the arguments, which have been addressed with reference to S.11A of the Industrial Disputes Act, keeping in view the fact that the charge was only with regard to absence from duty, in view of the suggestions made by the Court, the parties took time to consider if the matter could be settled. After hearing both the sides today, it is found that the parties are willing to settle the matter for a payment of a sum of Rs.50,000/- to the legal heirs of the deceased

Chandravadan Arjunlal Pandit. The sum of Rs.25,000/- has already been deposited in the Court by the Board and Mr.Vyas submits that another Rs.25,000/- will be deposited by the Board in this Court at the earliest possible opportunity but in no case later than 15.9.98, although Mr. Brahmbhatt was little hesitant in agreeing to this amount because his clients are not present today. That may be so, but this Court also finds that in the facts and circumstances of this case, the legal heirs of the deceased Chandravadan Arjunlal Pandit should feel satisfied with the settlement of the dispute with a sum of Rs.50,000/-, which is found to be adequate in the facts and circumstances of this case as otherwise, the law is settled that the dismissal should relate back to the date of the original dismissal order and the legal representatives would not get anything and, therefore, ultimately Mr. Brahmbhatt has agreed to this settlement and rightly so in the opinion of this court.

4. Accordingly the impugned Award dt.18.2.82, which is impugned in both these Special Civil Applications, shall stand modified and shall stand satisfied in toto by payment of Rs.50,000/- to the legal heirs of Chandravadan Arjunlal Pandit by the Gujarat State Khadi Gramodyoga Board. On the request of Mr.Brahmbhatt it is ordered that the widow of Chandravadan Arjunlal Pandit shall be entitled to withdraw the balance amount of Rs.25,000/when it is deposited in this Court by the Board, as a sum of Rs.25,000/- has already been withdrawn. Henceforth this order would govern the rights and obligations of the parties instead of the impugned Award. Both these Special Civil Applications are disposed of accordingly and the Rule is made absolute in both these petitions as above. No order as to costs.